

Message Text

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70

ACTION EUR-25

INFO OCT-01 ISO-00 AID-20 CIAE-00 COME-00 EB-11 FRB-02

INR-10 NSAE-00 RSC-01 TRSE-00 XMB-07 OPIC-12 SPC-03

CIEP-02 LAB-06 SIL-01 OMB-01 NSC-10 SS-20 STR-08

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FM AMEMBASSY OTTAWA

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TAGS: EFIN, CA

SUBJECT: FOREIGN INVESTMENT REVIEW ACT: PRELIMINARY GUIDELINES

1. INDUSTRY, TRADE AND COMMERCE (85:) MINISTER ALASTAIR GILLESPIE TABLED PRELIMINARY GUIDELINES REGARDING NEW INVESTMENTS UNDER FOREIGN INVESTMENT REVIEW ACT (FIRA) IN HOUSE OF COMMONS DECEMBER 20. WHILE SCREENING OF NEW INVESTMENTS PROBABLY WILL NOT BECOME EFFECTIVE FOR AT LEAST ANOTHER YEAR, GILLESPIE SAID THE GUIDELINES WOULD BE USEFUL TO POTENTIAL INVESTORS IN DETERMINING WHETHER THEY SHOULD DISCUSS THEIR PLANS WITH GOC BEFORE THE NEW INVESTMENT PROVISIONS ENTER INTO FORCE. GUIDELINES DEAL GENERALLY WITH DEFINING WHAT CONSTITUTES A "RELATED BUSINESS." NEW INVESTMENTS BY EXISTING FOREIGN-CONTROLLED FIRMS IN CANADA INTO SIMILAR LINES OF ACTIVITY WILL BE TERMED "RELATED BUSINESSES" AND BE EXEMPTED FROM THE SCREENING PROCESS.

2. GUIDELINES SPECIFY RELATED BUSINESS AS I.A.: PRODUCTION OF PRODUCT OR SERVICE THAT CAN BE SUBSTITUTED FOR ONE ALREADY PRODUCED IN CANADA BY SAME INVESTOR; PRODUCTION OF COMPONENT OF VERTICAL INTEGRATION--OUTPUT FROM NEW INVESTMENT IS INPUT OFR EXISTING BUSINESS OWNED IN CANADA BY INVESTOR; PRODUCTION FROM PRESENT BUSINESS IS INPUT FOR NEW BUSINESS.

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IN LATTER CASE, IF OUTPUT FROM NEW BUSINESS IS LARGE ENOUGH

TO "RE-ORIENT" OLD BUSINESS, INVESTMENT WOULD BE SUBJECT TO SCREENING PROCESS. COPIES OF GUIDELINES BEING POUCHED.

3. GILLESPIE PREFACED REMARKS BY HOPING THAT SCREENING OF TAKEOVERS CAN BE IMPLEMENTED "WITHIN NEXT THREE TO FOUR MONTHS." HE CONTINUED THAT AFTER GAINING EXPERIENCE WITH TAKEOVERS (A PERIOD TO BE "AS SHORT AS IS FEASIBLE") AND CONSULTING PROVINCES PROVISIONS RELATING TO NEW INVESTMENT WILL ENTER INTO FORCE.

4. NEED FOR FORWARD PLANNING BY CORPORATIONS, GILLESPIE SAID, REQUIRES THAT THEY CONSIDER THE PROVISIONS OF FIRA SINCE, BY TIME TRANSACTION IS CONCLUDED, ACT MAY BE IN FORCE. TO ENSURE THAT ALL FUTURE PLANS ARE CONSISTENT WITH FIRA HE SUGGESTED PRIOR CONSULTATION WITH GOC. TEXT OF THAT PART OF REMARKS URGING CONSULTATION FOLLOWS AND WAS UNDERSCORED (AN UNUSUAL PROCEDURE) IN PRESS RELEASE:

BEGIN TEXT

FOR ALL THESE REASONS, I WANT TO ANNOUNCE THAT I HAVE DIRECTED MY DEPARTMENTAL OFFICIALS TO BE READY TO DISCUSS WITH POTENTIAL FOREIGN INVESTORS ANY PLANS THEY MIGHT HAVE INVOLVING LARGE NEW INVESTMENTS IN CANADA OR INVOLVING ACQUISITIONS OF LARGE OR MEDIUM-SIZED CANADIAN BUSINESSES OR INVOLVING ACQUISITIONS OF CANADIAN BUSINESSES IN PARTICULARLY SENSITIVE AREAS (E.G. CANADIAN BUSINESSES IN THE CULTURAL AREA OR OWNING AN IMPORTANT TECHNOLOGY). INDEED, I EXPECT FOREIGN INVESTORS MAKING INVESTMENTS IN ANY OF THE CATEGORIES TO WHICH I JUST REFERRED TO COME FORWARD READILY TO DISCUSS THEIR PLANS WITH MY OFFICIALS, BEFORE FINALIZING THEIR TRANSACTIONS, ALTHOUGH I RECOGNIZE THAT SUCH DISCUSSIONS WILL BE ON A VOLUNTARY BASIS.

END OF TEXT

5. STATEMENT CAME ONLY TWO DAYS AFTER ANNOUNCEMENT THAT MACDONALD TOBACCO, INC. OF MONTREAL (PRIVATELY-OWNED; 1500 EMPLOYEES; 25 PERCENT OF CANADIAN CIGARETTE MARKET) AND BEEN TAKEN OVER BY R. J. REYNOLDS TOBACCO CO OF NORTH CAROLINA.
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THE FINANCIAL TIMES ESTIMATED THE CASH PURCHASE PRICE AT C\$100 MILLION. ITC SOURCES TOLD US: (A) GOC HAD NOT BEEN CONSULTED IN ADVANCE; (B) IT NOT YET DECIDED WHETHER TO ATTEMPT TO BLOCK TAKEOVER; (C) MINISTER'S STATEMENT INTENDED TO PREVENT SIMILAR TAKEOVERS WITHOUT CONSULTATION BEFORE FIRA ENTERS INTO FORCE.

6. IN REPLYING TO GILLESPIE'S STATEMENT IN HOUSE NDP AND PC

SPOKESMEN CRITICIZED GUIDELINES AS AMBIGUOUS AND VAGUE
WHILE ALLOWING TOTAL VERTICAL INTEGRATION. NDP ASSERTED THAT
BY BEING INVOLVED "IN ALMOST EVERY PRODUCT IN USE",
MULTINATIONALS COULD EASILY CIRCUMVENT GUIDELINES.
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